

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Treasurer/Tax Collector/Public Administrator	(2) MEETING DATE 9/25/2012	(3) CONTACT/PHONE Justin Cooley, (805) 781-5852 Art Bacon, (805) 781-5849	
(4) SUBJECT Introduction of an ordinance amending Chapter 3.08 (Transient Occupancy Tax) of Title 3 (Revenue and Finance) of the County Code to amend and update in order to streamline the remittance of county funds, allow for the recovery of collection costs, simplify the hearing and appeal process, and clarify existing policies and procedures; and request for Authorization of Alternative Publication in lieu of full text publication of the proposed amendment. All Districts. Hearing date set for October 16, 2012.			
(5) RECOMMENDED ACTION It is recommended that your Board: <ol style="list-style-type: none"> 1. Introduce the proposed amendment to Chapter 3.08 (Transient Occupancy Tax) of Title 3 (Revenue and Finance) to amend and update in order to streamline the remittance of county funds, allow for the recovery of collection costs, simplify the hearing and appeal process, and clarify existing policies and procedures. 2. Direct the Clerk to set the item for public hearing and action on October 16, 2012. 3. Authorize the Tax Collector to prepare a notice to be published by the Clerk in a newspaper of general circulation in the County no later than October 3, 2012, summarizing the proposed ordinance that will be considered on October 16, 2012, which can act as an alternative publication pursuant to Government Code Section 25124(b)(1). 4. Authorize the Clerk to publish a summary in a newspaper of general circulation within 15 days after adoption of the proposed ordinance by your Board. 			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? N/A
(10) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. _____) <input type="checkbox"/> Board Business (Time Est. _____)			
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input checked="" type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A Date _____	
(17) ADMINISTRATIVE OFFICE REVIEW Emily Jackson			
(18) SUPERVISOR DISTRICT(S) All Districts -			

County of San Luis Obispo



TO: Honorable Board of Supervisors

FROM: Frank L. Freitas, CPA
County Treasurer, Tax Collector, Public Administrator

DATE: September 25, 2012

SUBJECT: Introduction of an ordinance amending Chapter 3.08 (Transient Occupancy Tax) of Title 3 (Revenue and Finance) of the County Code to amend and update in order to streamline the remittance of county funds, allow for the recovery of collection costs, simplify the hearing and appeal process, and clarify existing policies and procedures; and request for Authorization of Alternative Publication in lieu of full text publication of the proposed amendment. All Districts. Hearing date set for October 16, 2012.

RECOMMENDATION

It is recommended that your Board:

1. Introduce the proposed amendment to Chapter 3.08 (Transient Occupancy Tax) of Title 3 (Revenue and Finance) to amend and update in order to streamline the remittance of county funds, allow for the recovery of collection costs, simplify the hearing and appeal process, and clarify existing policies and procedures.
2. Direct the Clerk to set the item for public hearing and action on October 16, 2012.
3. Authorize the Tax Collector to prepare a notice to be published by the Clerk in a newspaper of general circulation in the County no later than October 3, 2012, summarizing the proposed ordinance that will be considered on October 16, 2012, which can act as an alternative publication pursuant to Government Code Section 25124(b)(1).
4. Authorize the Clerk to publish a summary in a newspaper of general circulation within 15 days after adoption of the proposed ordinance by your Board.

DISCUSSION

Summary

The Tax Collector is submitting an update to Chapter 3.08 (Transient Occupancy Tax) of the County Code for the Board's approval. Updating Chapter 3.08 will streamline the remittance of county funds collected from transient guests by lodging establishments on behalf of the County. Additionally, an updated collection process will increase customer service for the vast majority of lodging establishments through increased efficiency. Minor changes are made to the ordinance for general maintenance. Finally, this update will clarify policies and procedures already implemented as a result of past Board directives and County Counsel opinions, and will reflect consistency with state law and best practices.

The authorization of alternative publication of the proposed ordinance, in accordance with California Government Code Section 25124(b)(1), will be less costly than a full text publication.

The full text of the proposed ordinance (Attachment A), a summary of changes (Attachment B), a "strike out" version of the proposed amendment (Attachment C), and the proposed Summary for Alternate Publication (Attachment D) are included for reference.

Background

The Tax Collector is responsible for administering the Transient Occupancy Tax (TOT) program in the unincorporated areas of the County. Lodging establishments located within incorporated cities are subject to city ordinances. Approximately 860 establishments are subject to TOT in the unincorporated areas of the County. A tax of 9% of taxable rents paid is levied against the transient guests of lodging establishments. These establishments then collect this tax and hold the funds in trust for the County. Establishments report their rents and TOT collections and remit the taxes collected to the Tax Collector. In the 2011-2012 fiscal year, over \$6 million was collected under the County TOT program.

Streamlined Remittance of County Funds

The proposed ordinance amending Chapter 3.08 would update the County Code to provide several mechanisms to make the remittance of county funds collected through the TOT program more efficient, including providing for reporting and remittance through the Tax Collector's website. As TOT establishments are collecting a tax levied against transient guests and holding these funds in trust for the County, an emphasis has been placed on the efficient remittance of these County funds.

The ordinance would also allow for the department to recover the cost of collecting from the small percentage of establishments who do not report and remit county funds in a timely manner. The current ordinance does not allow for the recovery of such costs. Specific authorization for this recovery would occur as provided under the department's existing Cost Recovery Fee for unsecured taxes. Based on current delinquency rates, it is anticipated that this change would apply to less than 1% of all TOT establishments. It is anticipated that the recovery of collection costs will encourage timely reporting by previously delinquent establishments, allowing County staff to concentrate on providing quality service to all lodging establishments.

The ordinance makes provisions for the sale or transfer of TOT establishments by requiring purchasers or transferees to withhold any County funds collected by the previous operator.

Streamlined Reconsideration and Appeals

The proposed ordinance also updates County Code to allow the Tax Collector to reconsider any TOT assessment, estimated assessment or imposition of penalties, fees, or costs when presented with evidence by the establishment operator without the requirement of a formal hearing, allowing for more efficient resolutions. Previously, reconsideration required a formal appeal to the Tax Collector, including the appointment of a hearing officer. This change to the procedure will save time, both for the establishments as well as County staff.

Clarification of Existing Policies and Procedures

In recent years, several procedures and policies have been implemented by the Tax Collector as a result of Board directives and County Counsel opinions. Some of the recommended amendments to the ordinance are intended to clarify these current procedures and policies. For example, the definition of hotels has been amended to include "cabins". The definition of "Rents" has been amended to include all non-optional fees, such as cleaning fees or resort fees, paid by guests. Additionally, collection processes already in practice, including the filing of liens against delinquent establishments, have been formalized. This update will bring the department into compliance with the provisions and requirements of the County Tax Collector's Reference Manual, which is published by the California State Controller's Office.

Alternative Publication of Amendment

The California Government Code, Section 25124(b)(1), establishes specific publication requirements for ordinance amendments. Your Board can authorize publication of a summary of the proposed ordinance amendment to be published in a newspaper of general circulation in the County at least five days prior to the public hearing and within 15 days following action on the amendment. The approval of alternative publication would be less costly than publishing the full text of the proposed ordinance amendment.

OTHER AGENCY INVOLVEMENT/IMPACT

County Counsel has reviewed and approved the proposed amendment for form and legal effect.

FINANCIAL CONSIDERATIONS

The proposed amendment to Chapter 3.08 of the County Code will enhance the ability of TOT-collecting establishments to report and remit County funds in a timely manner and will provide for recovery of actual collection costs from delinquent lodging establishments. The authorization to recover actual collection costs as a delinquent collection of unsecured taxes fee will apply to less than 1% of current TOT operators.

Additionally, the approval of alternative publication, as described above, would be less costly than publishing the full text of the proposed amendment.

RESULTS

Amending Chapter 3.08 meets the County's goal of providing A Well Governed Community by being responsive to the community's need for the efficient remittance of funds collected by operators on behalf of the County and by providing quality customer service to those operators.

ATTACHMENTS

1. Attachment A - TOT Ordinance
2. Attachment B - TOT Ordinance Change Summary
3. Attachment C - TOT Ordinance Strikeout
4. Attachment D - Alternative Publication